IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1804 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 27/10/2004 in WP No : 19661 of 2004 on the file of the High Court.)

Between:

Smt.Y.Prabhavathamma, w/o Ramamurthy Reddy,
R/o Chandragiri Village & Mandal, Chittoor District.

..... APPELLANT

AND

1 The Commissioner, Appeals, Office of the Chief Commissioner of Land Administration,
Andhra Pradesh, Hyderabad.
2 The Joint Collector, Chittoor District, Chittoor.
3 The Mandal Revenue Officer, Chandragiri Mandal, Chittoor District.

..RESPONDENTS

Counsel for the Appellant: MR.V.V.NARASIMHA RAO

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

JUDGMENT: (Per BRSR,J)

The petitioner in writ petition No.19661 of 2004 is the appellant in this writ appeal preferred against the order, dated 27.10.2004, whereunder a learned single Judge of this Court dismissed the writ petition filed by the appellant and accordingly, confirmed the order passed by the Commissioner, Appeals, Office of the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad.

The appellant herein got assignment of an extent of Acs.3.08 cents of land in various survey numbers i.e., 1486/7, 1486/8, 1487/2, 1487/3, 1498/1 and 1498/2 of Chandragiri village *vide* DKT No.66/4/97, dated 30.01.1988. The said land was originally assigned in favour of one Nagaiah, who is the husband of Smt.Gangulamma. He was cultivating the land. That a report was submitted to the Joint Collector that the said Nagaiah borrowed a sum of Rs.5,000/- from the husband of the appellant by offering the assigned land as security for repayment of the loan. It is alleged that taking advantage of the situation, the appellant managed to get assignment in her favour, though she is not eligible for grant of any such assignment.

Based on the report, the Joint Collector *suo motu* entertained the revision and

accordingly directed a
show-cause notice to be issued to the appellant herein requiring her explanation as to why the assignment made in her favour shall not be cancelled since the said assignment was irregular inasmuch as the appellant was not eligible to be assigned as she is not a landless poor person. The appellant submitted her explanation to the show-cause notice that she does not have any right in the property owned by her husband except the right of maintenance. She, however, conceded that her husband owns and in possession of Acs.4.20 cents of land. The Joint Collector, having considered the explanation submitted by the appellant herein, passed an order cancelling the assignment on the ground that the appellant herein was not eligible for any assignment in her favour. The Joint Collector also found that the cancellation of assignment earlier granted in favour of Nagaiah was irregular. The appellant filed appeal before the Commissioner, Appeals, Office of the Chief Commissioner of Land Administration, Andhra Pradesh, and the Commissioner having reconsidered the entire issue found no merit in the appeal and accordingly dismissed the appeal.

The learned single Judge dismissed the writ petition and accordingly confirmed the order passed by the authorities.

In this writ appeal, Sri V.V.Narasimha Rao, learned counsel for the appellant submitted that under the Board Standing Order No.15 (18), the Government alone is entitled to exercise the power of revision after a period of three years and the Joint Collector, who initiated the *suo motu* proceedings, has no authority or jurisdiction, in law, to set the law in motion against the appellant for cancellation of the assignment.

Learned Government Pleader made available a copy of G.O.Ms.No.4286, dated 11.09.1980, which substituted sub-paragraphs 1 and 2 of paragraph 18 of the Standing Order 15 of the Board of Revenue enabling the Collector to exercise the power of revision at any time after passing of the original or appellate decision, if the Collector is satisfied that there has been material

irregularity in the procedure or that the decision was grossly inequitable or that it exceeded the powers of the officer who passed it or that it was passed under a mistake of fact or owing to fraud or misrepresentation. Thus, the objections raised by the learned counsel for the appellant that the Joint Collector has no authority in law to exercise revisional jurisdiction is not well-founded. Perhaps, the submission has been made without knowing that such amendment was made to the Board Standing Orders since the same is not published in any book containing the Board Standing Orders.

During the course of hearing of this appeal, learned counsel for the appellant further contended that even if that suo motu revisional power is conferred under the amended provisions, the same could be exercised by the District Collector and not by the Joint Collector. This objection has not been raised by the appellant herein at any stage of the proceedings, even before the learned single Judge. Be that as it may, the expression used in sub-paragraphs 1 and 2 of paragraph 18 of Standing Order 15 is not 'the District Collector', but what is employed is the expression 'Collector'. The Collector includes the Joint Collector. Unless the expression 'District Collector' is mentioned, the power can always be exercised by the Joint Collector.

It was also contended by the learned counsel for the appellant that the appellant continues to be a landless poor person and the lands, if any, held by her husband cannot be taken into consideration for the purpose of considering her case as landless poor person. This question does not directly arise for consideration for the simple reason that the fact that the appellant's husband owns an extent of Acs.4.20 cents of land in the same village was never disclosed by the appellant herein when she applied for and obtained the assignment. This fact itself is enough to cancel the assignment of the appellant. That apart, the Joint Collector and the Commissioner found that the appellant's husband not only owns Acs.4.20 cents of land in the village, but also owns a pucca house in Chandragiri village, which is not a small village, but a town.

Viewed from any angle, we do not find any merit in this appeal and the

same shall accordingly stand dismissed without any order as to costs.

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B. SUDERSHAN REDDY, J.

Date: 28.03.2005.

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C.V. RAMULU, J.

GS/KS

To

1 The Commissioner, Appeals, Office of the Chief Commissioner of Land Administration,
Andhra Pradesh, Hyderabad.

2 The Joint Collector, Chittoor District, Chittoor.

3 The Mandal Revenue Officer, Chandragiri Mandal, Chittoor District.

4. Two CCs to the G.P. for Revenue, High Court of A.P.,

Hyderabad (OUT)

5. Two C.D. Copies.